

1 TONY WEST
 Assistant Attorney General
 2 ELIZABETH J. SHAPIRO
 Deputy Branch Director
 3 JOEL McELVAIN, DC Bar No. 448431
 Senior Trial Counsel
 4 U.S. Department of Justice
 Civil Division, Federal Programs Branch
 5 20 Massachusetts Ave., NW
 Washington, DC 20001
 6 Telephone: (202) 514-2988
 Fax: (202) 616-8202
 7 Email: Joel.McElvain@usdoj.gov

8 Counsel for Defendants

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 10 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION
 11

12 ELECTRONIC FRONTIER FOUNDATION,)	
)	
13 Plaintiff,)	Case No. 4:09-cv-03351-SBA
)	
14 v.)	Stipulation
)	
15 CENTRAL INTELLIGENCE AGENCY, <i>et al.</i> ,)	No hearing requested
)	
16 Defendants.)	

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 18 The parties to this action, by and through their undersigned counsel, have
 19 conferred and have reached an agreement with respect to a schedule for further
 20 proceedings in this matter, including a proposed briefing schedule for addressing any
 21 remaining areas of dispute.

22 1. The parties stipulate that Plaintiff will not challenge exemptions asserted by
 23 Defendants pursuant to 5 U.S.C. § 552(b)(2) to the extent that Defendants have asserted
 24 “low 2” exemptions. The parties also stipulate that Plaintiff will not challenge
 25 exemptions asserted by Defendants pursuant to 5 U.S.C. § 552(b)(6), or exemptions
 26 asserted by Defendants pursuant to 5 U.S.C. § 552(b)(7)(C) where such exemptions have
 27 been claimed in conjunction with Section 552(b)(6).
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1 2. Defendants will provide a draft of a *Vaughn* index to Plaintiff with respect to
2 the documents withheld in whole or in part by the Central Intelligence Agency (CIA) and
3 the Office of Director of National Intelligence (ODNI) on or before May 31, 2011. The
4 draft index provided by CIA will be based on a sample of documents selected by the
5 parties pursuant to a separate agreement.

6 3. Defendants will provide a draft of a *Vaughn* index to Plaintiff with respect to
7 the documents withheld in whole or in part by the Department of Homeland Security
8 (DHS) on or before June 6, 2011. DHS is conducting a review of the material that it has
9 withheld from its previous productions to Plaintiff, and it will release any documents or
10 portions of documents that it newly determines not to be exempt from disclosure on or
11 before June 6, 2011.

12 4. Plaintiff will review the draft indices provided pursuant to paragraphs 2 and 3
13 above, and will inform Defendants no later than July 1, 2011 as to which exemptions
14 asserted by CIA, DHS, or ODNI, if any, it intends to challenge.

15 5. Defendant DOD will complete its review of newly-located records that may be
16 responsive to Plaintiff's FOIA requests, and will produce responsive and non-exempt
17 documents, or portions of documents, to Plaintiff no later than July 1, 2011.

18 6. The parties will confirm no later than July 15, 2011, the content of the sample
19 of documents that will be the subject of the draft *Vaughn* index to be prepared by DOD.

20 7. Defendant DOD will provide a draft of a *Vaughn* index to Plaintiff with respect
21 to the documents that it has withheld in whole or in part on or before August 12, 2011.
22 As noted above, the draft index provided by DOD will be based on a sample of
23 documents selected by the parties pursuant to a separate agreement.

24 8. Plaintiff will review the draft index provided pursuant to paragraph 7 above,
25 and will inform Defendants no later than September 2, 2011 as to which exemptions
26 asserted by DOD, if any, it intends to challenge.
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1 9. The parties agree that the provision of draft indices by Defendants is solely for
2 the purpose of facilitating a resolution of this case; that Defendants are not bound by the
3 draft indices that will be provided to plaintiff pursuant to paragraphs 2, 3, and 7 above;
4 and that Defendants may supplement or alter those indices in conjunction with the filing
5 of summary judgment motions as Defendants deem necessary.

6 10. Defendants will file their motion for summary judgment on or before October
7 4, 2011. Defendants' motion for summary judgment with respect to CIA and DOD,
8 including DOD's components the Defense Intelligence Agency and the National Security
9 Agency (if those defendants remain in the case), will be based on the samples described
10 above. Defendants' motion for summary judgment with respect to FBI also will be based
11 on a set of sample documents selected by separate agreement of the parties.

12 11. Plaintiff will file its combined opposition memorandum, and cross-motion for
13 summary judgment, on or before November 1, 2011.

14 12. Defendants will file their combined reply memorandum in support of their
15 motion, and opposition to the cross-motion, on or before November 15, 2011.

16 13. Plaintiff will file its reply memorandum on or before November 29, 2011.

17 14. A hearing with respect to the cross-motions for summary judgment will be
18 scheduled for December 13, 2011.

19
20 Dated: May 13, 2011

Respectfully submitted,

21
22 /s/ Joel McElvain
JOEL McELVAIN
23 Counsel for Defendants

24 /s/ Jennifer Lynch
JENNIFER LYNCH
25 Counsel for Plaintiff
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1 I hereby attest that I have obtained the consent for the filing of this document from
2 all persons whose signatures are represented herein.

3 /s/ Joel McElvain
4 JOEL McELVAIN
5 Counsel for Defendants

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7 PURSUANT TO STIPULATION, IT IS SO ORDERED.

8
9 Dated: _____

10 The Hon. SAUNDRA B. ARMSTRONG
11 United States District Judge
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CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2011, I electronically filed the foregoing document with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF system.

/s/ Joel McElvain
JOEL McELVAIN